



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	01/26/00	Bill No:	AB 1784
Tax:	Internet	Author:	Lempert, et al.
Board Position:		Related Bills:	AJR 41, SB 1377

BILL SUMMARY:

This bill would extend California's Internet Tax Freedom Act indefinitely.

ANALYSIS:

Current Law:

State law. Under California law, Part 32 (commencing with Section 65001) of Division 2 of the Revenue and Taxation Code was added by AB 1614 (Ch. 351, Stats. 1998) to create the "California Internet Tax Freedom Act." This Act states legislative findings and declarations that no existing or future state taxes or state fees be imposed by the state in a discriminatory manner upon Internet access or online computer services, and specifies the following:

- For the period January 1, 1999 through January 1, 2002, no local government may impose, assess, or attempt to collect any tax or fee on Internet access, online computer services, or the use thereof, or a bit tax or bandwidth tax, except that prohibition does not include:
 1. Any existing tax, including any sales and use tax, business license tax, or utility user tax that is imposed in a uniform and nondiscriminatory manner, as specified.
 2. Any cable television franchise fee on online computer services or Internet access delivered over a cable television system, except as specified.

Federal law: Under Title XI and XII of the Omnibus Appropriations Act of 1998, approved as H.R. 4328 by Congress on October 20, 1998 and signed as Public Law 105-277 on October 21, 1998, the federal "Internet Tax Freedom Act" was created to do the following:

- Prohibit state and local governments from taxing Internet access from October 1, 1998 until October 21, 2001.
- Prohibit state and local governments from imposing taxes that would subject buyers and sellers of electronic commerce to taxation in multiple states and protects against the imposition of new tax liability for consumers and vendors involved in commercial transactions over the Internet, including the application of discriminatory tax collection requirements imposed on out-of-state businesses through strained interpretations of "nexus."
- Establish a commission to study electronic commerce tax issues and report back to Congress after 18 months on whether electronic commerce should be taxed, and if so,

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how they can be taxed in a manner that ensures such commerce won't be subject to special, multiple, or discriminatory taxes.

- Specify that it is the Sense of Congress that there should be no federal taxes on Internet access or electronic commerce.
- Declare that the Internet should be a tariff-free zone.

Proposed Law:

This bill would amend Section 65004 of the California Internet Tax Freedom Act within the Revenue and Taxation Code by deleting the provision that specifies that the Internet Tax Freedom Act shall become inoperative in three years.

COMMENTS:

1. **Sponsor and purpose of the bill.** The measure is sponsored by the author and is intended to continue a responsible tax policy regarding the taxation of the Internet so as to avoid any potential burdens placed on this evolving medium.
2. **There is pending federal legislation to also extend the federal Internet Tax Freedom Act indefinitely.** Sen. No. 1611 has been introduced by Senator John McCain, Chairman of the Committee on Commerce, Science, and Transportation, on September 22, 1999. This federal legislation would also make the federal moratorium on taxation of e-commerce permanent and would specify that sales and use taxes for domestic or foreign goods or services acquired through electronic commerce is prohibited. It would also include a "Sense of the Senate" that the U.S. Trade Representatives to the World Trade Organization should advocate a "tax-free zone" for the Internet. Sen. No. 1611 has been referred to the Committee on Commerce, Science, and Transportation.
3. **Board supported both federal and state legislation.** The Board unanimously supported the 1998 federal "Internet Tax Freedom Act" as well as California's Internet Tax Freedom Act of 1998.
4. **Other Internet-related bills.** As of the date of this analysis, two other measures addressing the taxation of electronic commerce and the Internet have been introduced: AJR 41 (Robert Pacheco) would memorialize the President and Congress to support federal legislation to make the federal Internet Tax Freedom Act permanent, and SB 1377 (Haynes) would provide a sales and use tax exemption for any sale or purchase made over the Internet.

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COST ESTIMATE:

Enactment of this measure would not have any impact on the Board's administrative costs.

REVENUE ESTIMATE:

Enactment of this measure would have no impact on the State's or local jurisdictions' sales and use tax revenues nor would it impact the revenues derived from the imposition of the Emergency Telephone Users Surcharge or any other fee or tax administered by the Board.

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